



**NMECG Presentation to
Science Technology & Telecommunications Interim Legislative Committee
August 1, 2012
Multipurpose Room, Bob Moran Building
New Mexico Junior College (NMJC)
5317 Lovington Highway
Hobbs, NM**

Mr. Chairman, members of the committee my name is Charles Ferrell and I am the Executive Director for the New Mexico Exchange Carrier Group (NMECG). With me today are Steven Metts, Chief Executive Officer, Valley Telecom Group, President of the NMECG and Sam Ray Lobbyist for the NMECG. Thank you for allowing us to speak to you today. The NMECG is an industry association and has eleven rural telecommunications companies as its members. The companies are:

Baca Valley Telephone Company, Des Moines, NM

Dell Telephone Cooperative, Dell City, TX

ENMR/Plateau, Clovis, NM

La Jicarita Telephone Cooperative, Mora, NM

Leaco Rural Telephone Cooperative, Hobbs, NM

Penasco Valley Telephone Cooperative, Artesia, NM

Roosevelt County Telephone Cooperative, Portales, NM

Sacred Wind Communications, Albuquerque, NM

Tularosa Basin Telephone Co, Tularosa, NM

Valley Telecom Cooperative, Wilcox, AZ

Western NM Telephone Co, Silver City, NM



New Mexico Exchange Carrier Group (NMECG) companies provide service covering over 63 percent of the state's geography, or nearly 77,124 square miles, and to about 17 percent of New Mexico's wireline telecommunications service consumers. The combination of large areas served and low population density means the average rural New Mexico telephone company serves fewer than 2.24 Customers per square mile. Not surprisingly, under these conditions, it is extremely costly to provide high quality telecommunications service to customers in rural areas of the State.

In the early days – 1950s and 1960s – it was clear that the only large telephone provider in the State was unwilling to spend the money needed to provide phone service in the State's remote rural areas. Therefore, rural citizens banded together and formed cooperatives and small companies to provide service to their communities and surrounding rural areas. Because of the extraordinarily high cost of service, the only way these small rural providers could keep customer rates affordable was by obtaining low interest federal government loans and financial support from a "universal service fund" established by the federal government expressly to assure that residents and businesses in the rural areas of the country had access to telephone service at affordable rates. This Federal USF has always been administered by the Federal Communications Commission.

The FCC's rules have historically provided rural telecom companies and cooperatives with federal USF support to reimburse these companies a portion of the costs that they incur to provide service in high-cost rural areas. Mandatory contributions to the Federal USF are made by all companies that provide certain interstate communications service. Rural telecom companies and cooperatives have relied on the Federal USF to build and maintain broadband-capable networks throughout the country, including in New Mexico.



New Mexico's rural telephone consumers now enjoy some of the most advanced telecommunications services available anywhere. For the last five years, NMECG member companies have invested over \$216M in capital investments in improving their networks and replacing facilities that are old and have reached their useful life with new copper and fiber optic cables. This infrastructure, which includes over 6,000 miles of fiber-optic facilities across the State, provides New Mexico's consumers with state-of-the-art digital and IP telephony, including broadband Internet connectivity and many other telecommunications products and services. Over 95 % of the rural company customers can have broadband service if they want it.

However, the job is far from complete. Sufficient, predictable, and sustainable support from the FCC Universal Service Fund continues to be needed, not only to deploy broadband to the remaining un-served consumers, but also for ongoing network maintenance and upgrades. This is necessary to provide faster connection speeds that can accommodate an ever-growing array of bandwidth-intensive applications and services. It is also needed to maintain reasonable end-user rates for broadband, which enables consumers to afford broadband.

As a result of reforms to the Federal USF announced by the FCC in 2011 and early 2012, the FCC is extending the USF support funding that led to the success of the small rural telecom companies and cooperatives to areas served by much larger telephone companies that serve both urban and rural areas. While the NMECG believes this goal could have been accomplished in ways that provide access to broadband service for all Americans, the FCC is instead reducing support for rural companies, and redistributing those resources to companies that have not historically made comparable investments in their rural service areas. Unfortunately, while this approach may reach unserved customers of the larger companies, it is likely to make existing network investments of rural telecoms and cooperatives unsustainable.



Because of the reductions in Federal Universal Service Fund support, many rural telecom companies and cooperatives will need to replace the Federal USF funding from other revenue sources. To accomplish this, they are concerned that they may be forced to raise the rates they charge their customers to **unaffordable levels** in order to cover costs, or they may be forced to cut spending on broadband deployment and network maintenance. To minimize these undesirable actions, the rural carriers may find that they need to seek support from the New Mexico State Universal Service Fund which was established by this Legislature to insure that universal service at affordable rates is preserved and advanced in rural areas of the State. . Since healthy and expanding voice and broadband networks support tele-healthcare, tele-education, public safety, and economic activity, the negative impacts of the reduction of Federal USF support for rural carriers are expected to be felt widely throughout the communities served by rural telecom companies and cooperatives, unless our State is prepared to assist the carriers in their efforts to continue providing high quality telecommunications services to their customers

Because of the changes being made by the FCC in Federal support mechanisms for high cost companies, the burden of providing sufficient, predictable, and sustainable support that is required to provide affordable telecommunications service in rural areas may partially shift to the State of New Mexico. Even though the NMECG and its member companies intend to do all they can to avoid burdening their customers and the others in the State with additional expenditures, if it becomes necessary for rural carriers to seek assistance from the PRC to ensure that affordable telecommunications services continue to be available to customers in rural high cost areas of the State, the NMECG and its members are hopeful that such assistance can be obtained with the help of the Commission with a minimum amount of regulatory expense and without unnecessary delay.



The Legislature passed HJM-9 during the last session. The Joint Memorial recognizes the reforms being implemented by the FCC and requests the appropriate interim legislative committee to consider reduced regulation for incumbent rural telecommunications carriers to insure that regulatory burdens and delays do not cause harm to rural carriers and ultimately their customers. Even though the Rural Telecommunications Act of New Mexico (RTA) currently recognizes the need for disparate treatment for rural carriers, the Joint Memorial asks that the committee look at further streamlining regulation for rural carriers with the objectives of further reducing the costs and burdens of regulation, permitting pricing flexibility, and expediting required rate approvals.

The NMECG, acting pursuant to the Joint Memorial, has reviewed New Mexico statutes and prepared some proposed changes to several sections of the RTA seeking to meet the objectives of the Joint Memorial. The NMECG's proposed changes are contained in the presentation package identified as Attachment 1, 2, 3, 4 and 5 along with a copy of the Joint Memorial. A brief overview of each of the proposed changes to existing statutes follows:

Attachment 1: 63-9H-4 Regulation by commission. The proposed change would add a new subsection C that would provide more direction to the Commission to adopt rules that provide for more relaxed and expedited regulation for incumbent carriers. This change is consistent with the Purpose section of the RTA (63-9H-2) that calls for disparate and streamlined regulation for rural carriers.

Attachment 2: 63-9H-6 State rural universal service fund establishment. In subsection L, the change would remove some limitations for carriers seeking State USF support and would require that the Commission decide cases concerning State USF issues in a prompt manner but no longer than six months.



Attachment 3: 63-9H-7 Regulation of retail rates of incumbent rural telecommunications carriers. The changes would clarify some of the language in subsections B and C. Subsection C would allow changes in rates that are mandated by state or federal law with a 10 day notice to customers and the Commission. The change in subsection E would remove the option for the PRC staff to open a potentially expensive and lengthy hearing in a rate case where protests have not been made by at least two and one-half percent of affected customers. The changes in subsection F would require that the Commission resolve a rate case within nine months with a possible extension of three months. This last change is consistent with current time requirements for rate proceedings for electric and gas utilities under the Public Utility Act.

Attachment 4: Section 63-9H-3 9(I) -- The definition of “incumbent rural telecommunications carrier” is changed to eliminate the apparent confusion of the current definition by removing reference to a date that has been argued by some to limit some small rural companies from being covered by the provisions of the RTA.

The NMECG has always believed that the Legislature’s intent in enacting the Rural Telecom Act was to have all rural carriers with fewer than 50,000 access lines regulated under the Act. However, in a recent case that will be discussed in more detail by Mr. Badal on behalf of Sacred Wind Communications, the PRC viewed this definition section differently and its decision appears to leave two rural carriers excluded from regulation under the RTA. The proposed change we have made to the definition section of the RTA would clear up this confusion.



In addition to the proposed changes in the RTA discussed above, the NMECG also suggests amendments be made to the current statute governing the payment of a utility and carrier inspection fee. This fee is paid by telecommunications carriers to the PRC and amounts collected by the PRC are remitted to the General Fund.

Attachment 5: 63-7-2 Utility and carrier inspection fee. The changes proposed in subsection A would remove some outdated language to clarify what the NMECG believes to be the Legislature's intent that all telecommunications carriers operating in the State and subject, in whole or in part, to regulation by the PRC, must pay the fee. The change would expressly confirm that wireless carriers, some of which have been refusing to pay the fee, are subject to making the payment. This change would help level the playing field so that all telecommunications carriers, including wireless carriers and other providers of comparable alternative services (Voice over the internet VoIP), have to pay the carrier utility fee if they are regulated in whole or in part by the Commission.

The proposed revisions prepared by the NMECG have been shared with the Public Regulation Commission's Telecommunications Bureau Staff and the Attorney General's office. Meetings between the parties will be held to facilitate a concurrence on the proposed changes. The NMECG will report to the Interim Committee the results of the discussions among the interested parties and will, at a later meeting of the committee; request that the committee support the proposed changes for consideration at the next General Legislative Session.

I want to leave one special thought for this committee. The commission continues to regulate the small rural companies and the main competition for the small companies are the giant largest wireless carriers nationwide and they have no regulation.



Again Mr. Chairman, members of the committee, I thank you for the opportunity to speak to you today concerning this very important issue. We stand for questions.

**New Mexico Exchange Carrier Group Company Facts
For Cooperatives and Small Commercial Companies
As of Year End 2011**

New Mexico Jobs	526
New Mexico Annual Payroll	\$28,299,415
Access Lines	34,411
Broadband Capable Lines	95%
Miles of Fiber	6,322
Square Miles Served	77,124
Access Lines per Square Mile	2.24
Total State & Local Taxes Paid 2010	\$4,763,977